

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DONELLE MURPHY,

Petitioner,

-against-

WARDEN,

Respondent.

20-CV-3770 (CM)

ORDER OF DISMISSAL

COLLEEN McMAHON, Chief United States District Judge:

By order dated May 18, 2020, the Court directed Petitioner, within thirty days, to submit a completed request to proceed *in forma pauperis* (“IFP application”) or pay the \$5.00 fee required to file a petition for a writ of *habeas corpus* in this Court. That order specified that failure to comply would result in dismissal of the complaint. Plaintiff has not filed an IFP application or paid the fee.¹ Accordingly, this petition is dismissed without prejudice. *See* 28 U.S.C. §§ 1914, 1915. Nothing in this order effects the petition in *Murphy v. Warden, Attica Corr. Fac.*, ECF 1:20-CV-3076, 3 (filed Apr. 16, 2020).

The Clerk of Court is directed to mail a copy of this order to Plaintiff and note service on the docket.

¹ On April 16, 2020, the Court received a letter from Petitioner seeking an extension of time to file a petition under 28 U.S.C. § 2254 because he was in the process of exhausting his state remedies. The Clerk of Court opened Petitioner’s letter as a new civil action. By order dated May 15, 2020, Judge Stanton directed Petitioner to pay the \$5.00 filing fee and noted that the Court may not grant an extension of time or a stay in an action that has not yet been filed, and therefore directed Petitioner to file his § 2254 petition before the limitations period expired on June 25, 2020. *See Murphy v. Warden, Attica Corr. Fac.*, ECF 1:20-CV-3076, 2 (S.D.N.Y. May 15, 2020). Petitioner filed his petition and paid the \$5.00 filing fee on June 16, 2020. *Id.* at ECF No. 3.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: July 7, 2020
New York, New York

A handwritten signature in black ink, appearing to read "Colleen McMahon", is written over a horizontal line.

COLLEEN McMAHON
Chief United States District Judge